REMARKS

Applicants respectfully request that these remarks be considered in addition to the remarks contained in the Amendment dated October 2, 2010.

In this Supplemental Amendment, Applicants have further amended claim 23 to recite "... a 40 mM 2-N morpholinoethane sulphonic acid (MES) buffer of pH 5.5 to ~~6.0~~ 6.5 in a ratio of 1:1 ...." Support for this amendment can be found in the specification (as filed) at, for example, page 8, line 18.

Claim 23 has also been amended to recite "... wherein said latex particle suspension is prepared according to a method ~~comprising~~ consisting essentially of: (i) mixing 1% carboxylated latex particles and a 40 mM 2-N morpholinoethane sulphonic acid (MES) buffer of pH 5.5 to ~~6.0~~ 6.5 in a ratio of 1:1, washing with a 20 mM MES buffer of pH 5.5 thereby forming a washed latex particle, and (ii) adding a 1-ethyl-3 (3-dimethyl-amino propyl) carbodiimide hydrochloride (EDC) in a 20 mM MES buffer of pH 5.5 to said washed latex particle in a ratio of 1:1 , washing with a 20 mM MES buffer (pH 5.5)...." In the Office Action dated July 27, 2010, the Examiner rejected claim 23 under 35 U.S.C. § 103 as obvious over Nilsson[1] and Sukosol[2] in view of Salzman[3] and Fruitstone[4]. Nilsson teaches that 10% w/v of blue carboxylated latex particles were washed in 0.05 M MES buffer at pH 5.5, which contained 0.05% w/v Tween 20.[5] Therefore, Nilsson does not teach preparing a latex particle suspension be a method consisting essentially of mixing 1% carboxylated latex particles with 40 mM (0.04M) MES buffer in a ratio of 1:1 because it teaches using Tween 20.

Additionally, claim 23 was amended to recite "... a washing buffer ~~comprised~~ consisting essentially of 50 mM glycine, pH 8.5; 0.03% surfactant and 0.05% sodium azide."

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[1] Nilsson *et al.* "Microparticles for selective protein determination in capillary electrophoresis," ELECTROPHORESIS, (2001) 22: 2384-2390 ("Nilsson").

[2] Sukosol *et al.*, "Fusion protein of Solmonella typhi flagellin as antigen for diagnosis of typhoid fever," ASIAN PACIFIC J. OF ALLERGY AND IMMUN., (1994) 12:21-25 ("Sukosol").

[3] WO 01/040280 to Salzman *et al.* ("Salzman").

[4] U.S. Patent No. 4,379,847 to Fruistone *et al.* ("Fruitstone").

[5] Nilsson at p. 2385, § 2.2.

Thus, the recited washing buffer does not include BSA. In contrast, Nilsson teaches a washing buffer that includes BSA.[6]

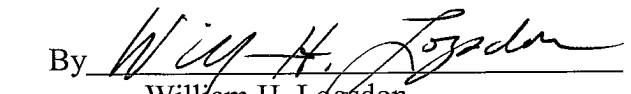
Claim 24 has been amended to recite "wherein the carboxylated latex particle coated consists essentially of ~~with~~ an antibody specific to a Flagellin gene." As discussed in the Amendment dated October 27, 2010, there is no reason why one would reasonably expect Nilsson's invention to work if the second antibody is removed from the latex particle. Since claim 24 is directed to a particle consisting essentially of an antibody specific to a Flagellin gene, it does not include particles that have a second antibody.

CONCLUSION

Due to the differences discussed above and in the Amendment dated October 27, 2010, a combination of the cited references does not result in the recited invention. For these reasons, Applicants respectfully request reconsideration and withdrawal of the objections and rejections, allowance of pending claims 23-27, and rejoinder of claim 28.

Respectfully submitted,

THE WEBB LAW FIRM

By 

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[6] Nilsson at page 2385, col. 2; Office Action at page 8.